

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

LUIS MORALES VASQUEZ,

Defendant.

Case No. CR03-260L

ORDER DENYING DEFENDANT'S  
MOTION FOR A DOWNWARD  
DEPARTURE

This matter comes before the Court on defendant's "Motion for a Downward Departure Pursuant to U.S.S.G. § 5K2" (Dkt. # 31). On November 20, 2003, defendant was sentenced to 36 months and 7 days imprisonment following his guilty plea to conspiracy to distribute cocaine. In his motion, defendant asks the Court to reduce his sentence in light of his post-conviction rehabilitation.

Defendant's post-conviction rehabilitation does not form a basis on which this Court may reduce his sentence. Because more than a year has passed since defendant's conviction, this Court may only reduce his sentence if the government requests such a reduction on the grounds that defendant has provided the government with substantial assistance. See Fed. R. Crim. P. 35(b). The government has not filed such a motion.


To the extent that defendant claims that the Bureau of Prison has improperly refused to give him credit for participating in a drug treatment program, that claim must be dismissed for

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1 lack of jurisdiction. See Hassain v. Johnson, 790 F.2d 1420, 1420 (9<sup>th</sup> Cir. 1986). Such a claim  
2 must be brought through a habeas corpus petition, 28 U.S.C. § 2241, in the United States  
3 District Court for the Eastern District of California, the district in which defendant is now  
4 incarcerated.

5 For all of the foregoing reasons, defendant's "Motion for a Downward Departure  
6 Pursuant to U.S.S.G. § 5K2" (Dkt. # 31) is DENIED.

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8 DATED this 18<sup>th</sup> day of April, 2005.

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11 Robert S. Lasnik  
12 United States District Judge  
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